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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,134	04/20/2005	Emmanuel Dotaro	Q104303	6495
47382                      7590                      12/30/2008 PATTI, HEWITT & AREZINA LLC ONE NORTH LASALLE STREET 44TH FLOOR CHICAGO, IL 60602				
EXAMINER LI, SHI K				
ART UNIT                      PAPER NUMBER 2613				
MAIL DATE                      DELIVERY MODE 12/30/2008                      PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/532,134

## Applicant(s)

DOTARO ET AL.

## Examiner

Shi K. Li

## Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 3-7 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date 4/20/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species III in the reply filed on 3 November 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Mukherjee et al. (U.S. Patent 6,792,208 B1).

Regarding claim 1, Mukherjee et al. discloses in FIG. 2 an optical switching apparatus comprising input fiber (primary resources) and output fiber, fiber switch (first processing module) and wavelength switch (second processing module). The switches are inherently controlled by some control means. Mukherjee et al. teaches in FIG. 2 coupling means between the fiber switch and the wavelength switch including a waveband switch and AWG 208.

Regarding claim 2, Mukherjee et al. teaches in FIG. 2 a plurality of passive combination and/or separation elements AWG 208. Mukherjee et al. teaches in FIG. 3 that the waveband switch comprises a plurality of switching elements.

4. Claims 1, 8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Watanabe et al. (U.S. Patent 6,701,088 B1).

Regarding claim 1, Watanabe et al. teaches in FIG. 4 an IP packet transmission equipment comprising input primary resources and output primary resource OPS, first processing module 14 and second processing module 16. Module 14 is a wavelength switch and module 16 is a packet router. Inherently, these modules have control means for controlling the modules. Watanabe et al. teaches in FIG. 4 coupling means 17-1, 17-2 and 17-3 between the packet router and the wavelength switch as add bus and coupling means 18-1, 18-2 and 18-3 between the packet router and the wavelength switch as drop bus.

Regarding claim 8, Watanabe et al. teaches in FIG. 7B that the signal conversion part 11 comprises wavelength demultiplexing circuit. Therefore, the OPS are wavelength channels and the switching module 14 is a wavelength switch.

Regarding claim 10, Watanabe et al. teaches in FIG. 4 IP packet routing part 16.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shi K. Li whose telephone number is 571 272-3031. The examiner can normally be reached on Monday-Friday (7:30 a.m. - 4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

skl  
22 December 2008

/Shi K. Li/  
Primary Examiner, Art Unit 2613